

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201805123	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/24/2018 9:30 PM	Location of Incident: In front of 200 32nd Street	Precinct: 72	18 Mo. SOL 12/24/2019	EO SOL 12/24/2019	
Date/Time CV Reported Sun, 06/24/2018 9:38 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 06/24/2018 9:38 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Umar Cheema	18390	961688	072 PCT
2. POM Adib Algahiti	21917	960108	072 PCT
3. POM Saeed Rubaid	20977	959448	072 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dylan Giordano	13652	963542	072 PCT
2. SGT Christophe Shea	02700	948425	072 PCT
3. POM Patrick Kurek	19134	958781	072 PCT
4. POF Christina Baggs	04169	959466	YTH SD

Officer(s)	Allegation	Investigator Recommendation
A.POM Umar Cheema	Force: Police Officer Umar Cheema used physical force against § 87(2)(b)	
B.POM Adib Algahiti	Force: Police Officer Adib Algahiti used physical force against § 87(2)(b)	
C.POM Saeed Rubaid	Force: Police Officer Saeed Rubaid used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On June 24, 2018, § 87(2)(b) called the CCRB and filed the following complaint via the Call Processing System on behalf of § 87(2)(b).

On June 24, 2018, at approximately 9:30 p.m., § 87(2)(b) and his brother, § 87(2)(b) were driving when they got into a verbal altercation that became physical, and pulled their vehicle over in the vicinity of the intersection of 32nd Street and 4th Avenue in Brooklyn. § 87(2)(b) and § 87(2)(b) briefly fought in the street, wherein § 87(2)(b) punched his brother in the nose and drew blood. Police Officer Dylan Giordano and Police Officer Umar Cheema, both of the 72nd Precinct, approached § 87(2)(b) and followed him as he began to walk away. Police Officer Saeed Rubaid and Police Officer Adib Algahiti, both of the 72nd Precinct, joined the other officers in pursuit, and § 87(2)(b) ran away from the officers who stopped him in front of 200 32nd Street.

Once stopped, the officers ordered § 87(2)(b) to place his hands behind his back. When he refused, PO Cheema, PO Algahiti, and PO Rubaid allegedly threw § 87(2)(b) to the ground (**Allegations A, B, and C: Force, § 87(2)(g)**). § 87(2)(b) landed chest-first on the ground, wherein PO Rubaid employed the use of several hand strikes against § 87(2)(b)'s back, and allegedly kicked him three to four times on the left side of his abdomen (**within Allegation C: Force, § 87(2)(g)**). Shortly thereafter, the officers handcuffed § 87(2)(b) and transported him to the 72nd Precinct stationhouse, and later brought him to § 87(2)(b) in Brooklyn due to pain in his wrists. § 87(2)(b) received x-rays, was given Motrin, and released back to the 72nd Precinct.

The investigation obtained eight Body-Worn Camera (“BWC”) videos (BR01-BR08) from the involved officers, which captured portions of this incident.

Findings and Recommendations

Allegation A—Force: Police Officer Umar Cheema used physical force against § 87(2)(b)

Allegation B—Force: Police Officer Adib Algahiti used physical force against § 87(2)(b)

Allegation C—Force: Police Officer Saeed Rubaid used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) punched his brother, § 87(2)(b) in the face, and ran from the responding officers who had ordered him to stop. It is undisputed that when officers caught up to § 87(2)(b) he refused the officers’ orders to place his hands behind his back, and locked his arms together in front of his chest. It is undisputed that PO Cheema, PO Algahiti, and PO Rubaid employed a forcible takedown against § 87(2)(b) wherein he continued to resist on the ground. It is undisputed that PO Rubaid employed the use of several hand and knee strikes against § 87(2)(b)'s lower back. What remains in dispute is whether the uses of force employed against § 87(2)(b) by PO Cheema, PO Algahiti, and PO Rubaid were reasonable under the given circumstances.

§ 87(2)(b) stated that after initially running from the officers, he ran out of breath and came to a stop in front of 200 32nd Street in Brooklyn, wherein PO Cheema, PO Giordano, PO Algahiti, and PO Rubaid caught up to him and approached (BR09). § 87(2)(b) told the officers not to touch him because he has an anger problem, and that he and his brother had gotten into a fight. The officers told § 87(2)(b) that he needed to come down the block to where his brother was, however, he refused.

Additional officers arrived and ordered § 87(2)(b) to stand still and stop moving. § 87(2)(b) told the officers he did not have to listen to them because he had not done anything wrong. The officers ordered § 87(2)(b) to put his hands behind his back but he refused. After five minutes of ordering and refusing those orders, the officers grabbed § 87(2)(b) by his arms, and tried to pull them behind his back. § 87(2)(b) locked his arms together in front of his chest, and the group of officers allegedly threw him to the ground. § 87(2)(b) landed on his knees and chest, and described the takedown as quick rather than gradual.

On the ground, the officers continued to try and pull § 87(2)(b)'s arms behind his back, and ordered him to stop resisting. § 87(2)(b) stated that one of the officers punched him approximately five or six times in the lower back area, and kicked him three or four times on the left side of his abdomen. Throughout the struggle, the officers repeatedly ordered § 87(2)(b) to stop resisting and he repeatedly told them that he was not resisting and had not done anything wrong. § 87(2)(b) stated that, due to the pain from PO Rubaid's hand strikes to his back, he released his right arm, but still had his left arm locked in front of his chest because he "wasn't letting them put handcuffs on" him. The officers flipped § 87(2)(b) over from his stomach to his back, pulled his left arm behind his back, and successfully handcuffed him. § 87(2)(b) was transported to the 72nd Precinct stationhouse.

At the 72nd Precinct stationhouse, EMS responded after § 87(2)(b) complained of pain to his wrists and knees. EMTs transported § 87(2)(b) to § 87(2)(b) in Brooklyn, where he received an x-ray, was diagnosed with a sprained finger, and was given Motrin for the pain.

§ 87(2)(b)'s medical records corroborate that he did receive an x-ray, was diagnosed with a sprained left thumb, and did not indicate any other areas of pain. To note, the medical records indicate that § 87(2)(b) sustained his thumb injury during the initial altercation with § 87(2)(b) and report no injury or diagnosis regarding the officers' use of force (BR22).

Arrest report #§ 87(2)(b) generated on June 24, 2018, at 9:42 p.m., and prepared by PO Giordano in regard to the arrest of § 87(2)(b) in sum and substance reported that § 87(2)(b) and his brother had engaged in a physical altercation that resulted in his brother sustaining facial swelling and a bloody nose (BR10). § 87(2)(b) ran from responding officers, refused verbal commands to stop and to place his hands behind his back, and resisted being handcuffed by flailing his arms and locking them in front of his chest. PO Giordano further reported that § 87(2)(b) told the officers that he wanted to "do it the hard way," refused medical attention on scene, and was charged with assault with intent to cause physical injury, obstructing governmental administration, and resisting arrest.

TRI Reports § 87(2)(b), #§ 87(2)(b), and #§ 87(2)(b), prepared by PO Cheema (BR11), PO Algahiti (BR12), and PO Rubaid (BR13), respectively, in sum and substance consistently reported that § 87(2)(b) pushed and grappled with the officers, resisted arrest by locking his arms and hands together in front of his chest, and sustained injury as a result. The officers further reported that a forcible takedown was used against § 87(2)(b) in defense of themselves and other officers, to overcome his resistance. In contrast to PO Cheema and PO Algahiti, PO Rubaid reported that he employed hand strikes against § 87(2)(b) and that he sustained a laceration and minor swelling to his hand as a result (BR12).

The investigation obtained eight BWC videos (BR01-BR08) from the involved officers, which captured portions of this incident, highlighted by two clips taken from PO Cheema's BWC

(BR18; BR19). However, none of the BWC videos clearly capture the force used due to it being dark outside during the incident. § 87(2)(g)

In the first clip (BR18), PO Cheema and the other officers repeatedly order § 87(2)(b) to turn around, and he repeatedly refuses. At the 32-second mark, PO Cheema tells § 87(2)(b) that he is “going to make [him] turn around,” and § 87(2)(b) replies, “Well I’m not giving you my hands.” Shadows show what appear to be a struggle while officers repeatedly order him to stop resisting, and § 87(2)(b) shouts, “I’m not giving you guys my hands!”

In the second clip (BR19), at the 19-second mark, PO Cheema’s BWC falls onto the ground with the camera facing upward. PO Rubaid, seen partially from the back on the right side of the frame, is heard repeatedly ordering § 87(2)(b) to stop resisting and to give him his hands. During each command, PO Rubaid’s upper body twists in a repeated motion as audible ‘thuds’ are heard, and § 87(2)(b) yell, “You gotta stop fucking hitting me!” At the 57-second mark, Police Officer Christina Baggs of the 72nd Precinct is heard stating, “Alright, let’s get the other hand. I got one [handcuff] on,” and a few moments later is heard telling the other officers to flip § 87(2)(b) over and get his other hand. At the 1:40 minute mark, the second handcuff is heard being clasped.

PO Cheema stated that additional officers assisted holding onto § 87(2)(b) and together the group of officers forcefully guided him to the ground (BR14). PO Cheema denied that he or any other officer threw § 87(2)(b) to the ground. PO Cheema did not witness PO Rubaid employ any knee strikes to § 87(2)(b) and denied that he or any other officer kicked § 87(2)(b)

§ 87(2)(g)

PO Rubaid stated that, on the ground, § 87(2)(b) laid on top of his arms, and refused the officers’ orders. PO Rubaid acknowledged that he struck § 87(2)(b) two or three times on the right side of his ribcage with a closed fist in order to “loosen him up,” and gain compliance as he was still actively resisting arrest. PO Rubaid stated that he stopped employing the fist strikes against § 87(2)(b) when they failed to cease his resistance, and employed two or three knee strikes to the same ribcage area of § 87(2)(b)’s back. PO Rubaid again ceased the knee strikes when they were not effective in controlling § 87(2)(b)’s movements or preventing his continued resistance.

After struggling for a few more moments, § 87(2)(b) got tired, the officers pulled his arms apart and out from beneath his chest, and PO Baggs handcuffed one of his wrists. § 87(2)(b) continued to resist and attempted to re-clasp his arms in front of his chest. However, no additional hand or knee strikes are employed, and the only force used thereafter was limited to pulling § 87(2)(b)’s free hand behind his back to successfully handcuff him. PO Rubaid stated that while pulling § 87(2)(b)’s uncuffed hand behind his back, the handcuffs grazed his finger, causing him to sustain a laceration. Although PO Rubaid stated that his use of hand and knee strikes failed to gain control over § 87(2)(b)’s active resistance, the BWC clips show that the officers handcuffed § 87(2)(b) only after PO Rubaid’s use of force.

While PO Giordano and PO Baggs were involved in the incident, the investigation determined based upon the BWC footage, relevant documentation, and officer testimony, that both officers’ contact with § 87(2)(b) was limited to holding onto his arms, and assisting

in handcuffing him. Therefore, force allegations were not pleaded against them.

When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In situations in which this is not safe and/or appropriate, MOS will use only the reasonable force necessary to gain control or custody of a subject. In determining whether the use of force is reasonable, members of the service should consider the nature and severity of the crime/circumstances; the action(s) taken by the subject; the duration of the action(s); the immediacy of the perceived threat or harm to the subject, member of the service, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; and the subject's violent history. Patrol Guide, Procedure 221-01 (BR17).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) has been a party.
- PO Cheema, a two-year-member-of-service, has not had any prior CCRB complaints filed against him (See officer history). This is the first CCRB complaint in which PO Cheema has been a party.
- PO Algahtiti, a three-year-member-of-service, has had one prior CCRB complaint filed against him, with a total of two allegations, none of which were substantiated (See officer history). § 87(2)(g)
- PO Rubaid, a three-year-member-of-service, has not had any prior CCRB complaints filed against him (See officer history). This is the first CCRB complaint in which PO Rubaid has been a party.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of September 21, 2018, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's office in regards to this incident (BR20)
- According to the Office of Court Administration database, § 87(2)(b) has not been criminally convicted in New York City (BR21).

Squad No.: 7

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer:

Signature

Print Title & Name

Date

Page 7

CCRB Case # 201805123